

MISSOURI GAMING COMMISSION
COMMISSION RESOLUTION NO. 13-107

JAIME MUSIGNAC
December 4, 2013

WHEREAS, Jaime Musignac ("Musignac"), requested a hearing to contest the proposed disciplinary action initiated against him on March 28, 2013, by the Commission's issuance of a Preliminary Order for Disciplinary Action, DC-12-647; and

WHEREAS, pursuant to 11 CSR 45-13.010, et. seq., an administrative hearing has been held on Musignac's request and the Hearing Officer has submitted the proposed Findings of Fact, Conclusions of Law and Final Order attached hereto (collectively the "Final Order") for approval by the Commission; and

NOW, THEREFORE, BE IT RESOLVED, that the Commission has reviewed the Final Order and hereby issues to Musignac a two calendar day suspension of his occupational license in the above-referenced case in the matter of DC-12-647; and

BE IT FURTHER RESOLVED, that this shall be considered a final decision of the Missouri Gaming Commission.

BEFORE THE MISSOURI GAMING COMMISSION

In Re: Jaime Musignac

License Number: 106922

Case No. 12-647

FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL ORDER

The above-captioned matter comes before the Missouri Gaming Commission (hereinafter referred to as "Commission") upon receipt of an undated letter making a request for a hearing by Jaime Musignac (hereinafter referred to as "Petitioner"). Said request for hearing was in response to the Commission's Preliminary Order for Disciplinary Action dated March 28, 2013. The designated Hearing Officer, Bryan W. Wolford, conducted a hearing on November 1, 2013 where the Petitioner and the Commission's attorney, Mr. Christopher Hinckley, appeared to present evidence and arguments of law.

FINDINGS OF FACT

1. On August 26, 2012, Petitioner was employed by Casino One Corporation ("Company") as a Table Games Supervisor aboard the *Lumiere Place Casino* ("Casino").
2. On August 28, 2012, Trooper Thomas Belote ("Tpr. Belote") of the Missouri State Highway Patrol was notified of an August 26, 2012 incident where the Petitioner left the Craps pit unsupervised.
3. On August 28, 2012, Tpr. Belote was assigned to the Gaming Division of the Missouri Highway Patrol as an agent of the Commission.
4. Tpr. Belote's investigation and review of surveillance video recordings revealed the following:
 - a) On August 26, 2012, the Petitioner was on duty as the table games supervisor, which included the Craps pit.
 - b) The Petitioner left the craps pit unsupervised for 26 minutes from 10:27 a.m. to 10:57 a.m. while he was on a break.
 - c) Table Games Supervisor Dawn Baumhoff was on duty at the same time and was aware of the Petitioner's violation. Baumhoff did not, however, report the violation until the next day when she did so in an email to her supervisor, Casino Manager Joyce Ridge.

5. Petitioner admitted to leaving the gaming floor unsupervised for twenty-six minutes on August 26, 2012 while he was on break.
6. Petitioner's actions or inactions in failing to monitor the gaming floor discredits the Missouri gaming industry and the State of Missouri, and violates Section 313.812.14 RSMo. (2012), Section 313.812.14(1), (2), & (9), RSMo. (2012), 11 CSR 45-4.260(4)(E), (F), & (Q), the Commission's Minimum Internal Control Standards ("MICS") Chapter D, § 13.01, the Company's internal control system ("ICS") Chapter D, §13.01.

CONCLUSIONS OF LAW

1. "The Commission shall have full jurisdiction over and shall supervise all gaming operations governed by Section 313.800 to 313.850." Section 313.805 MO. REV. STAT. 2010.
2. "A holder of any license shall be subject to the imposition of penalties, suspension, or revocation of such license, or if the person is an applicant for licensure, the denial of the application, for any act or failure to act by himself or his agents or employees, that is injurious to the public health, safety, morals, good order, and general welfare of the people of the state of Missouri, or that would discredit or tend to discredit the Missouri gaming industry of the state of Missouri unless the licensee proves by clear and convincing evidence that it is not guilty of such action . . . the following acts may be grounds for such discipline: (1) Failing to comply with or make provision for compliance with Sections 313.800 to 313.850, the rules and regulations of the commission or any federal, state, or local law or regulation." Section 313.812.14 MO. REV. STAT. 2012.
3. "The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing the facts of his/her case by clear and convincing evidence . . ." Regulation 11 CSR 45-13.060(2).
4. "Clear and convincing evidence" is evidence that "instantly tilts the scales in the affirmative when weighed against the opposing evidence, leaving the fact finder with an abiding conviction that the evidence is true." *State ex. rel. Department of Social Services v. Stone*, 71 S.W.3d 643, 646 (Mo. App. 2002).
5. "The state has a legitimate concern in strictly regulating and monitoring riverboat gaming operations. As such, any doubt as to the legislative objective or intent as to the Commission's power to regulate riverboat gaming operations in the state must be

resolved in favor of strict regulation." *Pen-Yan Investment, Inc. v. Boyd Kansas City, Inc.*, 952 S.W.2d 299, 307 (Mo. App. 1997).

6. Under 11 CSR 45-9.060(3), violations of the Commission's Minimum Internal Control Standards ("MICS") by a Class A licensee or an agent or employee of the Class A licensee are deemed to be unsuitable conduct for which the Class A licensee and/or its agent or employee is subject to administrative penalty pursuant to Section 313.805(6) RSMo. (2012) and 11 CSR 45-1 *et. seq.*; as amended from time to time.
7. Under 11 CSR 45-9.060(4), violations of the Class A licensee's internal control system ("ICS") by a Class A licensee or an agent or employee of the Class A licensee shall be prima facie evidence of unsuitable conduct for which the Class A licensee and/or its agent or employee is subject to discipline pursuant to Section 313.805(6) RSMo. (2012) and 11 CSR 45-1 *et. seq.*; as amended from time to time.
8. The Commission's MICS, Chapter D, § 13.01 states, "Other than a Casino Shift Manager acting as a Table Games Manager, Table Games Managers shall be physically present in the pit for at least ninety percent (90%) of their shift and be solely dedicated to supervising activities at open table games and activities within the pit(s). Absences of a longer duration will require a replacement Table Games Manager to be on duty in the pit."
9. The Company's ICS, Chapter D, § 13.01 states, "Other than a Casino Shift Manager acting as a Table Games Manager, Table Games Managers shall be physically present in the pit for at least ninety percent (90%) of their shift and be solely dedicated to supervising activities at open table games and activities within the pit(s). Absences of a longer duration will require a replacement Table Games Manager to be on duty in the pit."
10. "The commission may . . . revoke or suspend an occupational license of any person . . . who has failed to comply with or make provision for complying with Chapter 313, RSMo, the rules of this commission, or any federal, state, or local law or regulation." Regulation 11 CSR 45-4.260(4)(E).

DISCUSSION

The law provides broad authority to the Commission regarding the regulation of the gaming industry in order to assure that the public health, safety, morals, and good order are maintained and protected. In this case, Petitioner left the gaming floor unsupervised for twenty-

six minutes while he went on break. He did not contact a replace Table Games Manager to supervise the gaming floor while he took his break.

Petitioner's actions or inactions in failing to monitor the gaming floor on August 26, 2012 discredits the Missouri gaming industry. Petitioner did not meet his high burden of proof of clear and convincing evidence in showing that no violation occurred.

FINAL ORDER

WHEREFORE, IT IS ORDERED AND ADJUDGED that Petitioner is found to have violated Missouri law and is subject to discipline at the discretion of the Commission. The decision of the Commission dated March 28, 2013 to impose a two (2) calendar day suspension against Petitioner is affirmed as a proper and appropriate discipline.

DATED: November 12, 2013



BRYAN W. WOLFORD
Hearing Officer